

**EIGHTY-SEVENTH LEGISLATIVE DAY
WEDNESDAY, APRIL 2, 2003**

House of Representatives

The House convened at 10:45 a.m., the Speaker in the Chair.

Roll call showed all 70 members present.

Prayer was offered by Reverend Bruce Swanson.

The Pledge of Allegiance was led by Kristina Uhlenkott, Page.

Approval of Journal

April 2, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have read and approved the House Journal of the Eighty-sixth Legislative Day and recommend that same be adopted as corrected.

FIELD(18), Chairman

Mrs. Field(18) moved that the report be adopted. Seconded by Mrs. Boe. Report adopted.

**Consideration of Messages from the
Governor and the Senate**

OFFICE OF THE GOVERNOR
Boise

April 1, 2003

The Honorable Bruce Newcomb
Speaker of the House

Dear Mr. Speaker:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following House Bills, to wit:

H 203, H 213, H 238, as amended, H 351, H 352, and H 360

Very truly yours,
/s/ DIRK A. KEMPTHORNE
Governor

April 1, 2003

Mr. Speaker:

I transmit herewith enrolled **S 1050, S 1053**, as amended, **S 1075, S 1102**, as amended, **S 1128, SCR 103, SCR 109, SCR 110, SJM 102**, and **SJM 103** for the signature of the Speaker.

WOOD, Secretary

The Speaker announced he was about to sign enrolled **S 1050, S 1053**, as amended, **S 1075, S 1102**, as amended, **S 1128, SCR 103, SCR 109, SCR 110, SJM 102**, and **SJM 103** and,

when so signed, ordered them returned to the Senate.

April 1, 2003

Mr. Speaker:

I return herewith enrolled **H 174**, as amended, as amended in the Senate, and **H 110**, as amended, as amended in the Senate, which have been signed by the President.

WOOD, Secretary

Enrolled **H 174**, as amended, as amended in the Senate, and **H 110**, as amended, as amended in the Senate, were referred to the Judiciary, Rules, and Administration Committee for delivery to the Governor.

April 1, 2003

Mr. Speaker:

I transmit herewith **S 1174** which has passed the Senate.

WOOD, Secretary

S 1174 was filed for first reading.

April 1, 2003

Mr. Speaker:

I return herewith **H 370, H 371, H 322, H 228, H 306, H 270, H 319, H 326**, and **H 160**, as amended, which have passed the Senate.

WOOD, Secretary

H 370, H 371, H 322, H 228, H 306, H 270, H 319, H 326, and **H 160**, as amended, were referred to the Judiciary, Rules, and Administration Committee for enrolling.

April 1, 2003

Mr. Speaker:

I return herewith **H 372** which has failed the Senate.

WOOD, Secretary

H 372 was filed in the Office of the Chief Clerk.

Report of Standing Committees

April 2, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION report that we have printed **H 398** and House amendments to **S 1073**.

FIELD(18), Chairman

H 398 was referred to the Transportation and Defense Committee.

April 2, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have enrolled **H 149, H 339, H 327, H 357, H 9**, as amended, as amended in the Senate, **H 150**, as amended in the Senate, and **H 64**, as amended, as amended in the Senate.

FIELD(18), Chairman

The Speaker announced he was about to sign enrolled **H 149**, **H 339**, **H 327**, **H 357**, **H 9**, as amended, as amended in the Senate, **H 150**, as amended in the Senate, and **H 64**, as amended, as amended in the Senate, and, when so signed, ordered them transmitted to the Senate for the signature of the President.

April 2, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have engrossed **H 218**, as amended in the Senate, **H 65**, as amended in the Senate, **H 301**, as amended in the Senate, and **H 169**, as amended, as amended in the Senate.

FIELD(18), Chairman

H 218, as amended in the Senate, **H 65**, as amended in the Senate, **H 301**, as amended in the Senate, and **H 169**, as amended, as amended in the Senate, were filed for first reading of engrossed bills.

April 2, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have transmitted enrolled **H 11**, **H 331**, **H 255**, as amended in the Senate, and **H 59**, as amended in the Senate, to the Governor at 11:56 a.m., as of this date, April 1, 2003.

FIELD(18), Chairman

April 2, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have transmitted enrolled **HJM 8** and **HCR 17** to the Secretary of State at 11:59 a.m., as of this date, April 1, 2003.

FIELD(18), Chairman

April 1, 2003

Mr. Speaker:

We, your COMMITTEE ON REVENUE AND TAXATION, report that we have had under consideration **H 390** and recommend that it do pass.

CROW, Chairman

H 390 was ordered held at the desk.

April 1, 2003

Mr. Speaker:

We, your COMMITTEE ON BUSINESS, report that we have had under consideration **S 1133**, as amended, and recommend that it do pass.

BLACK, Chairman

S 1133, as amended, was filed for second reading.

There being no objection, the House advanced to the Eighth Order of Business.

Introduction, First Reading, and Reference

of Bills and Joint Resolutions

S 1174, by State Affairs Committee, was introduced, read the first time by title, and referred to the Education Committee.

S 1073, as amended in the House, by Health and Welfare Committee, was introduced, read the first time by title, and filed for second reading.

First Reading of Engrossed Bills

H 218, as amended in the Senate, and **H 169**, as amended, as amended in the Senate, by Judiciary, Rules, and Administration Committee, were introduced, read the first time by title and filed for second reading.

H 65, as amended in the Senate, by Mr. Speaker, requested by Department of Parks and Recreation, was introduced, read the first time by title and filed for second reading.

H 301, as amended in the Senate, by Education Committee, was introduced, read the first time by title and filed for second reading.

Second Reading of Bills and Joint Resolutions

H 392, by Ways and Means Committee, was read the second time by title and filed for third reading.

S 1171, by State Affairs Committee, was read the second time by title and filed for third reading.

Third Reading of Bills and Joint Resolutions

H 252, as amended, was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Eskridge and Mr. Campbell to open debate.

Mr. Campbell asked unanimous consent that, pursuant to Rule 22, discussion of other bills be allowed in debate of **H 252**, as amended. There being no objection, it was so ordered.

The question being, "Shall **H 252**, as amended, pass?"

Roll call resulted as follows:

AYES -- Barrett, Bauer, Bedke, Bell, Block, Bradford, Campbell, Collins, Crow, Deal, Eberle, Eskridge, Field(18), Field(23), Garrett, Harwood, Kulczyk, Langford, McGeachin, McKague, Meyer, Moyle, Raybould, Ridinger, Ring, Roberts, Rydall, Sali, Schaefer, Shirley, Stevenson, Tilman, Wood, Mr. Speaker. Total -- 34.

NAYS -- Andersen, Barraclough, Bieter, Black, Boe, Bolz, Cannon, Clark, Cuddy, Douglas, Edmunson, Ellsworth, Gagner, Henbest, Jaquet, Jones, Kellogg, Lake, Langhorst, Martinez, Miller, Mitchell, Naccarato, Nielsen, Ringo, Robison, Saylor, Shepherd, Skippen, Smith(30), Smith(24), Smylie, Snodgrass, Trail, Wills. Total -- 35.

Absent and excused -- Denney. Total -- 1.
Total -- 70.

Whereupon the Speaker declared **H 252**, as amended, failed to pass the House and ordered the bill filed in the Office of the Chief Clerk.

Mr. Moyle moved that the House recess until 1:30 p.m. Seconded by Ms. Jaquet. Motion carried.

Whereupon the Speaker declared the House at recess until 1:30 p.m.

RECESS

Afternoon Session

The House reconvened at 1:30 p.m., the Speaker in the Chair.

Roll call showed 68 members present.
Absent and excused -- Stevenson, Trail. Total -- 2.
Total -- 70.

Prior to recess, the House was at the Eleventh Order of Business.

Third Reading of Bills and Joint Resolutions

H 381, as amended, was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Roberts to open debate.

The question being, "Shall **H 381**, as amended, pass?"

Roll call resulted as follows:

AYES -- Barraclough, Barrett, Bauer, Bedke, Bell, Black, Block, Bolz, Bradford, Campbell, Cannon, Clark, Collins, Cuddy, Deal, Denney, Eberle, Edmunson, Ellsworth, Eskridge, Field(18), Field(23), Garrett, Harwood, Kulczyk, Lake, Langford, McGeachin, McKague, Meyer, Miller, Moyle, Nielsen, Raybould, Ridinger, Ring, Roberts, Rydalch, Sali, Schaefer, Shepherd, Shirley, Skippen, Smylie, Stevenson, Tilman, Wills, Wood, Mr. Speaker. Total -- 49.

NAYS -- Andersen, Bieter, Boe, Douglas, Gagner, Henbest, Jaquet, Jones, Kellogg, Langhorst, Martinez, Mitchell, Naccarato, Ringo, Robison, Sayler, Smith(30), Smith(24), Snodgrass. Total -- 19.

Absent and excused -- Crow, Trail. Total -- 2.

Paired Vote:

AYE -- Stevenson. NAY -- Ringo.

(Pair enumerated in roll call above.)

Total -- 70.

Whereupon the Speaker declared **H 381**, as amended, passed the House. Title was approved and the bill was ordered transmitted to the Senate.

H 386, as amended, was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Wills to open debate.

The question being, "Shall **H 386**, as amended, pass?"

Roll call resulted as follows:

AYES -- Andersen, Barraclough, Barrett, Bell, Bieter, Black, Bolz, Bradford, Campbell, Cannon, Clark, Cuddy, Deal, Denney, Edmunson, Ellsworth, Field(18), Field(23), Gagner, Henbest, Jaquet, Jones, Kellogg, Langford, Langhorst, Miller, Mitchell, Moyle, Naccarato, Raybould, Ring, Ringo, Roberts, Robison, Sali, Shepherd, Shirley, Skippen, Smith(30), Smylie, Snodgrass, Wills, Mr. Speaker. Total -- 43.

NAYS -- Bauer, Block, Boe, Collins, Douglas, Eberle, Eskridge, Garrett, Harwood, Kulczyk, Lake, Martinez, McGeachin, McKague, Meyer, Nielsen, Ridinger, Rydalch, Sayler, Schaefer, Smith(24), Tilman, Wood. Total -- 23.

Absent and excused -- Bedke, Crow, Stevenson, Trail. Total -- 4.

Total -- 70.

Whereupon the Speaker declared **H 386**, as amended, passed the House. Title was approved and the bill was ordered transmitted to the Senate.

H 199, as amended, as amended in the Senate, was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Ring to open debate.

The question being, "Shall **H 199**, as amended, as amended in the Senate, pass?"

Roll call resulted as follows:

AYES -- Andersen, Barraclough, Barrett, Bauer, Bedke, Bell, Bieter, Black, Block, Boe, Bolz, Bradford, Campbell, Cannon, Clark, Collins, Cuddy, Deal, Denney, Douglas, Eberle, Edmunson, Ellsworth, Eskridge, Field(18), Field(23), Gagner, Garrett, Harwood, Henbest, Jaquet, Jones, Kellogg, Lake, Langford, Langhorst, Martinez, McGeachin, McKague, Meyer, Miller, Mitchell, Moyle, Naccarato, Nielsen, Raybould, Ridinger, Ring, Ringo, Roberts, Robison, Sali, Sayler, Schaefer, Shepherd, Shirley, Skippen, Smith(30), Smylie, Snodgrass, Tilman, Wills, Wood, Mr. Speaker. Total -- 64.

NAYS -- Kulczyk, Rydalch, Smith(24). Total -- 3.

Absent and excused -- Crow, Stevenson, Trail. Total -- 3.

Total -- 70.

Whereupon the Speaker declared **H 199**, as amended, as amended in the Senate, passed the House. Title was approved and the bill was referred to Judiciary, Rules, and Administration for enrolling.

S 1165 was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Sali to open debate.

The question being, "Shall **S 1165** pass?"

Roll call resulted as follows:

AYES -- Andersen, Barraclough, Barrett, Bauer, Bedke, Bell, Bieter, Black, Block, Boe, Bolz, Bradford, Campbell, Cannon, Clark, Collins, Cuddy, Deal, Denney, Douglas, Eberle, Edmunson, Ellsworth, Eskridge, Field(18), Field(23), Gagner, Garrett, Harwood, Henbest, Jaquet, Jones, Kellogg, Lake, Langford, Langhorst, Martinez, McGeachin, Meyer, Miller, Mitchell, Moyle, Naccarato, Nielsen, Raybould, Ridinger, Ring, Ringo, Roberts, Robison, Rydalch, Sali, Sayler, Schaefer, Shepherd, Shirley, Skippen, Smith(30), Smith(24), Smylie, Snodgrass, Tilman, Wills, Wood, Mr. Speaker. Total -- 65.

NAYS -- Kulczyk, McKague. Total -- 2.

Absent and excused -- Crow, Stevenson, Trail. Total -- 3.

Total -- 70.

Whereupon the Speaker declared **S 1165** passed the House. Title was approved and the bill was ordered returned to the Senate.

S 1051, as amended in the House, was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Meyer to open debate.

The question being, "Shall **S 1051**, as amended in the House, pass?"

Roll call resulted as follows:

AYES -- Andersen, Barraclough, Barrett, Bauer, Bedke, Bell, Bieter, Black, Block, Boe, Bolz, Bradford, Campbell, Cannon, Clark, Collins, Crow, Cuddy, Deal, Denney, Douglas, Eberle, Edmunson, Ellsworth, Eskridge, Field(18), Field(23), Gagner, Garrett, Harwood, Henbest, Jaquet, Jones, Kellogg, Lake, Langford, Langhorst, Martinez, McGeachin, McKague, Meyer, Miller, Mitchell, Moyle, Naccarato, Nielsen, Raybould, Ridinger, Ring, Ringo, Roberts, Robison, Rydalch, Sali, Sayler, Schaefer, Shepherd, Shirley, Skippen, Smith(30), Smith(24), Smylie, Snodgrass, Tilman, Wills, Wood, Mr. Speaker. Total -- 67.

NAYS -- Kulczyk. Total -- 1.

Absent and excused -- Stevenson, Trail. Total -- 2.

Total -- 70.

Whereupon the Speaker declared **S 1051**, as amended in the House, passed the House. Title was approved and the bill was ordered returned to the Senate.

S 1084, as amended in the House, was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Schaefer to open debate.

The question being, "Shall **S 1084**, as amended in the House, pass?"

Roll call resulted as follows:

AYES -- Andersen, Barraclough, Barrett, Bauer, Bell, Bieter, Black, Block, Boe, Bolz, Bradford, Campbell, Cannon, Clark, Collins, Crow, Cuddy, Deal, Denney, Douglas, Eberle, Edmunson, Ellsworth, Eskridge, Field(18), Field(23), Gagner, Garrett, Harwood, Henbest, Jaquet, Jones, Kellogg, Lake, Langford, Langhorst, Martinez, McGeachin, McKague, Meyer, Miller, Mitchell, Moyle, Naccarato, Nielsen, Raybould, Ridinger, Ring, Ringo, Roberts, Robison, Rydalch, Sali, Sayler, Schaefer, Shepherd, Shirley, Skippen, Smith(30), Smylie, Snodgrass, Tilman, Wills, Wood, Mr. Speaker. Total -- 65.

NAYS -- Kulczyk. Total -- 1.

Absent and excused -- Bedke, Smith(24), Stevenson, Trail. Total -- 4.

Total -- 70.

Whereupon the Speaker declared **S 1084**, as amended in the House, passed the House. Title was approved and the bill was ordered returned to the Senate.

There being no objection, the House returned to the Eighth Order of Business.

Introduction, First Reading, and Reference of Bills and Joint Resolutions

HOUSE BILL NO. 399 BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3036A, IDAHO CODE, TO EXTEND PAYMENT OF ESTIMATED INCOME TAXES TO INDIVIDUALS AND OTHER NONCORPORATE TAXPAYERS AND TO PROVIDE WHEN THE FIRST ESTIMATED PAYMENTS IN TAXABLE YEAR 2004 FOR TAXPAYERS OTHER THAN CORPORATIONS ARE DUE; AND PROVIDING AN EFFECTIVE DATE.

HOUSE BILL NO. 400 BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO STATE SALES AND USE TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3640, IDAHO CODE, TO IMPOSE AN ADDITIONAL ONE-HALF OF ONE PERCENT SALES AND USE TAX AND TO PROVIDE FOR STATE TAX COMMISSION AUTHORITY; AND PROVIDING A SUNSET DATE.

HOUSE BILL NO. 401 BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO PORT DISTRICTS; AMENDING TITLE

70, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 22, TITLE 70, IDAHO CODE, TO PROVIDE FOR LAND-BASED PORT DISTRICT AUTHORIZATION, OBJECTS AND PURPOSES, TO PROVIDE FOR FORMATION OF LAND-BASED PORT DISTRICTS, TO PROVIDE FOR FORMATION OF REGIONAL LAND-BASED PORT DISTRICTS, TO PROVIDE FOR THE FILING AND CERTIFICATION OF PETITIONS FOR THE FORMATION OF LAND-BASED PORT DISTRICTS, TO PROVIDE FOR THE TRANSMISSION OF PETITIONS FOR THE FORMATION OF LAND-BASED PORT DISTRICTS TO CERTAIN GOVERNING BODIES, TO PROVIDE FOR ELECTIONS ON THE ISSUE OF THE FORMATION OF LAND-BASED PORT DISTRICTS AND TO PROVIDE FOR NOTICE, TO DESIGNATE THE FORM OF BALLOT FOR THE FORMATION OF A LAND-BASED PORT DISTRICT, TO PROVIDE FOR LAND-BASED PORT DISTRICT FORMATION, TO PROVIDE FOR ANNEXATION OF LAND TO LAND-BASED PORT DISTRICTS, TO PROVIDE FOR THE CERTIFICATION OF PETITIONS FOR ANNEXATION, TO PROVIDE FOR ELECTIONS ON THE ISSUE OF ANNEXATION, TO PROVIDE FOR THE CANVASS AND DECLARATION OF ELECTION RESULTS RELATING TO ANNEXATION, TO PROVIDE FOR THE ENTRY OF AN ORDER OF ANNEXATION AND TO PROVIDE FOR LIABILITIES FOR OUTSTANDING INDEBTEDNESS, TO PROVIDE FOR COMMISSIONERS AND COMMISSIONER DISTRICTS, TO PROVIDE FOR COMMISSIONER QUALIFICATIONS, TO PROVIDE FOR THE FIRST ELECTION OF COMMISSIONERS, TO PROVIDE FOR COMMISSIONERS FOR ANNEXED AREAS, TO PROVIDE FOR THE REVISION OF COMMISSIONER DISTRICTS, TO PROVIDE FOR PUBLIC MEETINGS ON THE ISSUE OF THE REVISION OF COMMISSIONER DISTRICTS AND TO PROVIDE FOR NOTICE, TO PROVIDE THAT THE REVISION OF COMMISSIONER DISTRICTS SHALL NOT AFFECT EXISTING TERMS OF OFFICE, TO PROVIDE FOR THE APPLICATION OF DESIGNATED LAW RELATING TO PORT DISTRICTS AND TO PROVIDE CERTAIN EXCEPTIONS TO THE APPLICATION OF CERTAIN PORT DISTRICT LAWS AND TO PROVIDE FOR DISINCORPORATION.

HOUSE BILL NO. 402
BY REVENUE AND TAXATION COMMITTEE
AN ACT

RELATING TO TAXATION OF ALCOHOLIC BEVERAGES; AMENDING SECTION 23-1008, IDAHO CODE, TO INCREASE THE TAX FOR BEER, TO REVISE THE DISTRIBUTION OF TAX REVENUES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 23-1319, IDAHO CODE, TO INCREASE THE TAX FOR WINE AND TO REVISE THE DISTRIBUTION OF TAX REVENUES.

HOUSE BILL NO. 403
BY WAYS AND MEANS COMMITTEE
AN ACT
RELATING TO THE CONSTITUTIONALLY BASED

EDUCATIONAL CLAIMS ACT; PROVIDING LEGISLATIVE FINDINGS; AMENDING SECTION 6-2214, IDAHO CODE, TO PROVIDE THE IMPOSITION OF AN EDUCATIONAL NECESSITY LEVY TO ABATE UNSAFE OR UNHEALTHY CONDITIONS UPON CERTAIN CONDITIONS OCCURRING AND TO PROVIDE PROCEDURES; AMENDING SECTION 6-2215, IDAHO CODE, TO PROVIDE THAT THE CONSTITUTIONALLY BASED EDUCATIONAL CLAIMS ACT SHALL APPLY TO PENDING LAWSUITS PRESENTING CONSTITUTIONALLY BASED EDUCATIONAL CLAIMS THAT HAVE NOT PROCEEDED TO FINAL JUDGMENT, TO PROVIDE FOR SUSPENSION OF SUCH PROCEEDINGS AND REFILEING OF COMPLAINTS, TO PROVIDE VENUE, TO PROVIDE FOR THE DISMISSAL OF PARTIES TO THE SUSPENDED LAWSUIT THAT ARE NOT PARTIES TO A REFILED LAWSUIT AND TO PROVIDE FOR DESIGNATION OF PORTIONS OF THE RECORD TO BE FORWARDED TO THE COURTS HEARING REFILED LAWSUITS; AMENDING CHAPTER 8, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-808, IDAHO CODE, TO AUTHORIZE A SAFE SCHOOL FACILITY LEVY UNDER CONDITIONS SPECIFIED, TO REQUIRE A NOTICE, TO ADDRESS A FAILED ELECTION AND TO REQUIRE A HEARING, TO REQUIRE JUDICIAL CONFIRMATION AND TO PROVIDE FOR A LEVY TO BE IMPOSED; AND DECLARING AN EMERGENCY.

H 399, H 400, H 401, H 402, and H 403 were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

There being no objection, the House returned to the Fifth Order of Business.

Report of Standing Committees

April 2, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION report that we have printed **H 402**.

FIELD(18), Chairman

H 402 was referred to the Revenue and Taxation Committee.

There being no objection, the House advanced to the Sixteenth Order of Business.

Adjournment

Mr. Denney moved that the House adjourn until 10:45 a.m., Thursday, April 3, 2003. Seconded by Ms. Jaquet. Motion carried.

Whereupon the Speaker declared the House adjourned at 2:36 p.m.

BRUCE NEWCOMB, Speaker

ATTEST:

PAMM JUKER, Chief Clerk